

REMARKS

Claims 1-28 remain in the application. No claims have been amended. Reconsideration of this application, in view of these remarks, is respectfully requested.

Claims 1-3, 9, 10, 12-18, 21-24, 27, and 28 were rejected under 35 U. S. C. § 102 (b) as being anticipated by US Patent 5,580,794 to Allen. This rejection is respectfully traversed for the following reasons.

Allen, U. S. Patent No. 5,580,794 (hereinafter "Allen"), discloses a disposable electronic assay device comprising card-like housing containing a sample receptor means for receiving a sample of body fluid containing an analyte to be determined, a sample treatment means for reaction with sample fluid components to yield a physically detectable change which correlates with the amount of analyte in the sample, a detector means responsive to the physically detectable change for producing an electrical signal which correlates with the amount of analyte in the sample, signal processing means connected to the detector means for converting the electrical signal to a digital test result output, and visually readable output means connected to the signal processor means for receiving and presenting the test result output.

In the present invention, each type of diagnostic test strip comprises a different indicator (or indicators) that enable the test port to differentiate it from other types of diagnostic test strips. When the user inserts the test strip into the test port of the measuring device, the test port will identify the corresponding functionality of the measuring device and automatically reconfigure or switch the measuring device to the appropriate functionality. These features are described at page 7, lines 12-17 of the specification.

In claim 1 of this application and the claims depending from claim 1 (claims 2-21), part (c) calls for "an indicator capable of interacting with said test port to select at least one of said multiplicity of testing functionalities of said measuring device." In claim 22 of this application and the claims depending from claim 22 (claims 23-27), the last two clauses of the claim call for "said port comprising a sensor capable of specifically interacting with said indicators on said test strips, thereby selecting at least one of said multiplicity

of testing functionalities corresponding to a test strip." In claim 28 of this application, part (a) calls for "a test port comprising a sensor capable of interacting with said indicators on said test strips to select at least one of said multiplicity of testing functionalities." Therefore, in all of the claims of this application, it is required that there be an indicator that selects at least one of a multiplicity of testing functionalities or a test port having a sensor that selects at least one of a multiplicity of testing functionalities.

Allen does not disclose or suggest a test strip having an indicator that can select at least one of a multiplicity of testing functionalities. Allen does not disclose or suggest a test port having a sensor that can select at least one of a multiplicity of testing functionalities. At column 6, lines 48-52 of Allen, it is stated:

Single or multiple assays can be done at one time. For example, a single assay can be done measuring cholesterol or one device can be set up to measure both total and HDL cholesterol from a single sample. One test device can be set up to measure one, two, three, or more analytes at one time.

This statement does not disclose or suggest a test strip having an indicator that can select at least one of a multiplicity of testing functionalities. This statement does not disclose or suggest a test port having a sensor that can select at least one of a multiplicity of testing functionalities. In Example 1 of Allen, it is shown that more than one assay can be carried out at the same time. However, neither the test strip nor the test port in Allen can select a particular assay to be performed at a particular time. In Allen, all of the assays in a given set of assays must be run at the same time. In view of the foregoing, it is submitted that Allen does not anticipate any claim of this application.

Claims 1-8, 10-26, and 28 were rejected under 35 U. S. C. § 102 (b) as being anticipated by US Patent 5,312, 590 to Gunasingham. This rejection is respectfully traversed for the following reasons.

Gunasingham, U. S. Patent No. 5,312,590 (hereinafter "Gunasingham"), discloses a method and apparatus for measuring a wide

range of chemical species in liquids. The apparatus employs a flat test device comprising a number of symmetrically arranged sensor elements that enable the multi-species determination from a single sample drop. Each sensor element is coated with a unique reaction layer that makes it responsive to specific chemical species. Additionally, all the sensor elements are coated with a single membrane which serves the dual function of a diffusion barrier and filter. An insulating layer is further coated over the membrane with specific provision for wells where the sample and reference solutions may be placed/. In a preferred embodiment of the invention, the sample well is centrally located so that chemical species present in the sample can diffuse equally to the various sensing elements. The reference solution wells are located adjacent to the specific sensing element. The center of the sample solution well and the center of the reference solution well are equidistant to the respective sensing element so that the diffusion of chemical species from the sample and reference solutions occurs equally.

As stated previously, in all of the claims of this application, it is required that there be an indicator that selects at least one of a multiplicity of testing functionalities or a test port having a sensor that selects at least one of a multiplicity of testing functionalities.

Gunasingham does not disclose or suggest an indicator that selects at least one of a multiplicity of testing functionalities or a test port having a sensor that selects at least one of a multiplicity of testing functionalities. At column 8, lines 24-44 of Gunasingham, multi-species detection is described. This mode of detection was described as follows:

The device consists of four symmetrically arranged sensor elements (16) that enable multi-species determination from a single sample drop. Each sensor element is coated with a unique reaction layer (17) that makes it responsive to specific chemical species. Additionally, all the sensor elements are coated with a single membrane (18) which serves the dual function of a diffusion barrier and filter. An insulating layer (19) is further coated over the membrane with specific provision for wells where the sample (20) and reference solutions (21) may

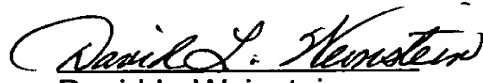
be placed. The sample well is centrally located so that chemical species present in the sample can diffuse equally to the various sensing elements. The reference solution wells are located adjacent to the specific sensing element. The center of the sample solution well and the center of the reference solution well are equidistant to the respective sensing element so that the diffusion of chemical species from the sample and reference solutions occurs equally.

This statement does not disclose or suggest a test strip having an indicator that can select at least one of a multiplicity of testing functionalities. This statement does not disclose or suggest a test port having a sensor that can select at least one of a multiplicity of testing functionalities. In Example 4 of Gunasingham, it is shown that more than one assay can be carried out at the same time. However, neither the test strip nor the test port in Gunasingham can select a particular assay to be performed at a particular time. In Gunasingham, all of the assays in a given set of assays must be run at the same time. In view of the foregoing, it is submitted that Gunasingham does not anticipate any claim of this application.

In view of the foregoing, it is submitted that claims 1-28 are in condition for allowance, and official Notice of Allowance is respectfully requested.

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